

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

RICHARD L. BRADSHAW, No. 02:10-CV-794-SU

Petitioner, ORDER

v.

STEVE FRANKIE, Superintendent,
Two Rivers Correctional Institute,

Respondent.

Richard L. Bradshaw, Pro Se
#14536879
TWO RIVERS CORRECTIONAL INSTITUTE
82911 Beach Access Rd
Umatilla, OR 97882

Attorney for Petitioner

Jacqueline Sadker Kamins
Jonathan W. Diehl
State of Oregon Department of Justice
1162 Court Street, NE

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Salem, OR 97301

Attorneys for Respondent

HERNANDEZ, District Judge:

Magistrate Judge Sullivan issued a Findings and Recommendation (#34) on August 11, 2011, in which she recommends that this Court deny the Petition for Writ of Habeas Corpus (#1), enter a judgment dismissing this case with prejudice, and decline to issue a Certificate of Appealability on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections¹ to the Magistrate Judge's Findings and Recommendation were timely filed, I am relieved of my obligation to review the record *de novo*. United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); see also United States v. Bernhardt, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge's report to which objections have been made). Having reviewed the legal principles *de novo*, I find no error.

CONCLUSION

The Court ADOPTS Magistrate Judge Sullivan's Findings and Recommendation (#34). Accordingly, the Petition for Writ of Habeas Corpus (#1) is denied. A judgment dismissing this case with prejudice will be entered and I decline to issue a Certificate of Appealability because

¹On August 24, 2011, Petitioner Bradshaw filed a notice of appeal from a judgment signed on June 15, 2011 by Judge Sullivan. The record does not show any such judgment. Even if Bradshaw were appealing Judge Sullivan's Findings and Recommendation from August 11th, the August 24th notice of appeal is procedurally incorrect, and therefore moot.

Petitioner Bradshaw has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 1st day of September, 2011.

/s/ Marco A. Hernandez
MARCO HERNANDEZ
United States District Judge